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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,087	10/23/2003	David M. Stravitz	02271C2/LH	8472

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/693,087	Applicant(s) STRAVITZ, DAVID M.	
	Examiner John R. Paradiso	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Withdrawal of Finality

1. Applicant's Appeal Brief in response to the Final Office Action raises several persuasive arguments and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over RICHARDS ET AL in view of DEMMING ET AL (US 6219998).

RICHARDS ET AL discloses a waste disposal device comprising a housing (21) with a lid (69) movable between an open and a closed position to cover the opening of the device. A cartridge of flexible tubing (2) is arranged in the container, the tubing being pulled over a rotation mechanism (1) and into the interior chamber (36) of the device. The cartridge has a cover (72) that forms a ring-shaped opening through which the tubing is pulled. Waste (35) is placed into the tubing and is held in place by a retention mechanism (52), twisting the tubing shut above the waste. An access (53) allows the packaged waste to be removed from the interior chamber (See RICHARDS ET AL columns 1-2 and figures 1-2.).

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RICHARDS ET AL does not specifically disclose a closing means to “pre-forming a closure at said front end portion of said tubing prior to insertion of waste into said tubing and in order to create a waste receiver without tying of said front end portion of said tubing” (see claim 1 of the instant application).

DEMMING ET AL discloses an apparatus for packaging material in a tube (10) of material. The tubular material is closed at the first end by deforming a metal clip (38) to form a space within which the material can be placed. (See DEMMING ET AL column 3:28-45, 4:24-33, and Figure 3.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of RICHARDS ET AL by closing the first end of the tubing to form a space within which the material can be placed, as taught by DEMMING ET AL, in order to provide a secure, leakproof closure appropriate to the type of material being contained within the packaging.

Regarding claims 3-4, metal clasps (as disclosed in DEMMING ET AL), heat seals, and stitching are art-recognized equivalents in the packaging art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a heat seal or stitching in the combination of RICHARDS ET AL and DEMMING ET AL as necessary or desired for consumer appeal or the best type of first closure to meet the requirements of the type of material being contained within the packaging.

Regarding claim 12 reciting said cartridge is made of fibrous material, this is read on the cartridge of RICHARDS ET AL, which by its nature and function must be tough enough to handle a large amount of use and thus can be defined as fibrous

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Regarding claims 8, 9, and 14, the “cover for closing and sealing said rear end portion” is being read on the fibrous casing of the cartridge of RICHARDS ET AL, and the lines of weakness are being read as the seams in that cartridge.

Regarding claim 12 and 19 reciting said cartridge is made of fibrous material, this is read on the cartridge of RICHARDS ET AL, which by its nature and function must be tough enough to handle a large amount of use and thus can be defined as fibrous

Regarding claim 23, Examiner takes Official Notice that the use of lines of separation to demark the separation points for rolls of plastic bags is well known in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bags of RICHARDS ET AL by forming lines of separation on them in order to allow a consumer to use less than an entire cartridgefull, as desired. The claimed “lines of depression” are read as a type of these lines of separation.

Regarding claim 26, RICHARDS ET AL clearly shows the edge of the cartridge cover (72) in RICHARDS ET AL covers only part of the cartridge and flexes out of the way to provide access (see RICHARDS ET AL Figure 1), so it is at least partially separate from the casing.

Regarding claims 25 and 26, the securing of containers with releasable means such as hook and loop fasteners is notoriously well known in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of RICHARDS ET AL so that the cover of the cartridge is releasably attached with hook and loop fasteners to make it easier and quicker for a user to access the tubing.

Response to Arguments

4. Applicant's arguments filed 10/11/2005 have been fully considered but are considered moot in view of the new grounds of rejection.

Reference Citations

5. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- PANIAGUA OLAECHEA discloses a method of closing a length of tubular material with a clip.
- EVANS discloses a method of closing a length of tubular material with a tape loop.
- RAUDYS ET AL discloses a method of closing a length of tubular material with a crimp, a tape, or other types of seal.
- KORSGAARD discloses a method of closing a length of tubular material with a tie.
- KOVACS discloses a method of closing a length of tubular material with a heat seal.

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

December 26, 2005